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Attorneys for JH Kelly, LLC

10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 In Re
14 PG&E CORPORATION
15 v.
16 AECOM TECHNICAL SERVICES, INC.

1 Case No. 4:20-cv-05381-HSG (Lead Case)
2 (Reference withdrawn from Bankruptcy Case
3 No. 19-30088, Adv. Proc. No. 20-03019 and
4 Adv. Proc. No. 19-03008)
5 (Consolidated with Case No. 3:20-cv-08463-
EMC)

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8 **ORDER ON STIPULATION
9 REGARDING MUTUAL
10 WITHDRAWAL OF CERTAIN
11 AFFIRMATIVE DEFENSES**

12 Plaintiff and Counterclaim Defendant JH Kelly, LLC (“JHK”) and Defendant and
13 Counterclaim Plaintiff AECOM Technical Services, Inc. (“AECOM”) (collectively, the
14 “Parties”), by and through their respective counsel, stipulate as follows:

15 WHEREAS, the Parties met and conferred in order to clarify and narrow the contested
16 issues for trial, specifically as to each party’s affirmative defenses. See Dkt. No. 66 (JH Kelly
17 LLC’s Answer to AECOM Technical Services, Inc.’s Second Amended Counterclaim); No. 186
18 (AECOM Technical Services, Inc.’s Answer to JH Kelly LLC’s Second Amended Counterclaim).

1 WHEREAS, JHK filed a Motion to Strike AECOM's Twelfth Affirmative Defense
 2 ("Lack of Licensure") on April 12, 2022. Dkt. No. 200.

3 WHEREAS, JHK alleges that "at all times material hereto [JHK] was authorized to
 4 conduct business in the State of California as a contractor under Contractors State License No.
 5 991732" and AECOM answered that it "lacks sufficient information to assess the truth or falsity
 6 of [that] allegation[] ... and accordingly denies the same." *See* Dkt. 102 ¶ 4; Dkt. No. 186 ¶ 4.

7 WHEREAS, the Parties agree that certain affirmative defenses asserted by the Parties can
 8 be withdrawn at this time in anticipation of trial.

9 NOW THEREFORE, in consideration of the foregoing, the Parties, by and through their
 10 respective counsel, hereby STIPULATE and AGREE as follows:

- 11 1. AECOM's First Affirmative Defense for Failure to State a Claim is withdrawn;
- 12 2. AECOM's Eleventh Affirmative Defense for Prompt Payment Laws is withdrawn;
- 13 3. AECOM's Twelfth Affirmative Defense for Lack of Licensure is withdrawn;
- 14 4. AECOM's Fourteenth Affirmative Defense for Indemnity is withdrawn;
- 15 5. AECOM's Twenty-Second Affirmative Defense for Statute of Limitations is
 withdrawn;
- 16 6. JHK's First Affirmative Defense for Failure to State a Claim is withdrawn;
- 17 7. JHK's Third Affirmative Defense for Causation is withdrawn;
- 18 8. JHK's Eighth Affirmative Defense for Reasonableness and Good Faith is
 withdrawn;
- 19 9. JHK's Twelfth Affirmative Defense for Indemnity is withdrawn;
- 20 10. JHK's Fourteenth Affirmative Defense for Violation of Prompt Payment is
 withdrawn.

21 The Parties agree that this Stipulation is not to be construed as a waiver or withdrawal of
 22 any other affirmative defense or as having any other effect on the Parties' answers to each other's
 23 allegations in their respective Answers.

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1 The Parties also agree that JHK will withdraw its Motion to Strike AECOM's Twelfth
2 Affirmative Defense [Dkt. No. 200] upon this Stipulation being entered by this Court.
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4 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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6 DATED: 4/19/2022

7 By: 
8 HAYWOOD S. GILLIAM, JR.
United States District Judge

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